

**CALIFORNIA COASTAL COMMISSION**

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August 25, 2014

Curtis Black  
SLO County General Services – Parks Division  
1341 Nipomo Street  
San Luis Obispo, CA 93401

**Subject:** Pirate's Cove/Cave Landing Trail

Dear Mr. Black,

This letter is to confirm our support of the approved trail improvement component of the County's Pirate's Cove/Cave Landing Trail and Parking Lot Improvement project. The trail, which would improve upon an existing remnant of Cave Landing Road, was approved by the California Coastal Commission (CCC) on July 11, 2014. As approved, this trail portion, which would connect Avila Beach and Pismo Beach, would improve a contiguous stretch of coastal trail in San Luis Obispo County between Port San Luis and the County's southern border and would be officially designated as part of the California Coastal Trail (CCT). Significant funding has been previously allocated to improve this approved trail section, including by constructing an approximately 30-foot long bridge to span a drainage and by realigning the trail inland to better avoid a known landslide complex. If not used for this project, the totality of these funds would be required to be returned to the various source agencies.

Commission staff has read the County's staff report on this item and is aware that County Parks is recommending that the Board of Supervisors withdraw the approved project at the August 26<sup>th</sup> hearing. In general, Parks' staff recommendation is based on service level concerns, liability concerns, and funding concerns. CCC staff strongly disagrees with this recommendation.

In terms of service level concerns, the County is indicating that by adding a new trail to this area, visitorship could increase, which may exacerbate current parking problems. While an improved trail might increase the popularity of the trail, it is not reasonable to assume that any increase in trail use will necessarily increase the number of vehicles coming to the site, nor their impacts upon the parking lot. As this is first and foremost (and originally only) a bike path project (and because the trail has been in existence in this location since the 1970s as opposed to being a brand new trail in a brand new location), it is reasonable to assume that a vast majority of the potential increased usage will be from additional bicycles, and there may be no noticeable impact on, or increase in, the area's existing parking demands. In addition, it has been shown that parking is available for approximately 100+ vehicles in the immediate area of the Pirate's Cove parking lot and along Cave Landing Road, which could be argued to be more parking than would have been allowed had the Coastal Commission approved the County's 70-space parking plan (not including additional roadside parking). Thus, an appropriate trailhead parking area (both in quantity and quality at this point) for the approved trail is located directly adjacent to the

approved trail. Finally, it should be noted that associated signage, garbage cans, bike racks, benches, etc., related to the approved trail component were indeed approved by the Coastal Commission and will result in improving the area, and reducing some of the other current service level concerns that have been expressed by the County, Appellants, and the Coastal Commissioners.

In terms of funding and timing, Commission staff worked closely and diligently with the County and the State Coastal Conservancy to bring this item to the July 2014 hearing to ensure that the allocated funds would be able to be used for this project. While the project has admittedly changed, Commission staff has not been made aware that there are any funding constraints relative to the approved project. Indeed, it appears from the County's staff report that substantial funding is still available and that the real issue is timing concerns related to drainage plan alternatives. To assist in ensuring that this project is completed as proposed and approved, and constructed as quickly as possible, Commission staff has indicated numerous times to County Park's staff our sincere willingness to assist in the redesign of the trail's drainage system, as part of condition compliance (Special Condition 5 – Water Quality Management Plan). In other words, no further "CCC approval," other than staff sign-off, is needed to redesign the project's drainage. We believe that County and Commission staff can work together efficiently to ensure this extremely valuable public access project is constructed in a timely manner, and well before the September 24, 2016 deadline.

Lastly, Commission staff notes the County's concerns regarding the indemnity portion of the Commission-imposed condition requiring the County to assume the risks of constructing development in an area known to be subject to coastal hazards, such as erosion. This indemnity provision would only apply if the Commission were sued for an injury caused by the coastal hazards listed in this condition, so the scope of the indemnity is limited. More importantly, like the County, the Commission is statutorily immune from liability arising out of an injury caused by a condition of a trail used for hiking or vehicular riding (Government Code § 831.4). Even if a lawsuit were filed, currently the Attorney General's office does not charge the Commission for defending a lawsuit, so there are not likely to be any attorneys' fees associated with indemnifying the Commission. Thus, this condition does not impose significant additional liability on the County, because the Commission enjoys the same statutory immunities for trails as the County does, and the Commission is unlikely to incur attorneys' fees associated with any lawsuit that is filed despite these immunities.

In conclusion, Commission staff does not believe the County's recommendation to withdraw the approved project is warranted and does not believe the cited reasons above are roadblocks. Rather, this project is one of many which has morphed and changed over time, and includes its share of obstacles which can surely be overcome. Again, staff is willing and ready to assist the County in any way possible to ensure this critical link in the CCT is completed as planned and approved.

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Sincerely,

A handwritten signature in black ink, appearing to read "Daniel Robinson", with a long horizontal flourish extending to the right.

Daniel Robinson,  
Coastal Program Analyst  
Central Coast District